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U.S. Department of Homeland Security
20 Mass, Rm. A3042, 425 I Street, N.W.
Washington, DC 20536

U.S. Citizenship and Immigration Services

[redacted]

FILE: [redacted] Office: MIAMI, FLORIDA Date: FEB 04 2004

IN RE: Applicant: [redacted]

APPLICATION: Application for Permanent Residence Pursuant to Section 1 of the Cuban Adjustment Act of November 2, 1966 (P.L. 89-732)

ON BEHALF OF APPLICANT:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The application was denied by the Acting District Director, Miami, Florida, who certified his decision to the Administrative Appeals Office (AAO) for review. The acting district director's decision will be affirmed.

The applicant is a native and citizen of Colombia who filed this application for adjustment of status to that of a lawful permanent resident under section 1 of the Cuban Adjustment Act (CAA) of November 2, 1966. The CAA provides, in pertinent part:

> [T]he status of any alien who is a native or citizen of Cuba and who has been inspected and admitted or paroled into the United States subsequent to January 1, 1959 and has been physically present in the United States for at least one year, may be adjusted by the Attorney General, (now the Secretary of Homeland Security, (Secretary)), in his discretion and under such regulations as he may prescribe, to that of an alien lawfully admitted for permanent residence if the alien makes an application for such adjustment, and the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence. The provisions of this Act shall be applicable to the spouse and child of any alien described in this subsection, regardless of their citizenship and place of birth, who are residing with such alien in the United States.

The acting district director determined that the applicant did not qualify for adjustment of status as the spouse of a lawful permanent resident who adjusted under section 1 of the CAA. The acting district director, therefore, denied the application.

The record reflects that on June 2, 2000, at Miami, Florida, the applicant married [redacted] native and citizen of Cuba. Based on that marriage, on June 7, 2001, the applicant filed for adjustment of status under section 1 of the CAA.

The acting district director denied the application after determining that the applicant's spouse, Mr. [redacted] was denied permanent residence under section 1 of the CAA, on June 21, 2003, for having being convicted in the Circuit Court in and for Dade County, Florida for the offense of possession with intent to sell of deliver cocaine. M[redacted]as found to be inadmissible to the United States pursuant to sections 212(a)(2)(A)(i)(II) and 212(a)(2)(C) of the Immigration and Nationality Act, (the Act). There is no waiver available to an alien found inadmissible under these sections of the Act except for a single offense of simple possession of thirty grams or less of marijuana. Mr[redacted]es not qualify under this exception and therefore is ineligible for adjustment of status to permanent residence, pursuant to section 1 of the CAA of November 2, 1966.

In *Matter of Quijada-Coto*, 13 I&N Dec. 740 (BIA 1971), the Board of Immigration Appeals held that adjustment of status to that of a permanent resident, pursuant to the provisions of the CAA of November 2, 1966, is not available to the spouse of an alien described in section 1 of the CAA, where the alien himself had been denied adjustment of status under the CAA.

Accordingly, the applicant is ineligible for adjustment of status to permanent residence, pursuant to section 1 of the CAA of November 2, 1966. The decision of the acting district director to deny the application will be affirmed.

ORDER: The acting district director's decision is affirmed.